

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRETT LIEBERMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

PORTAGE COUNTY, MIKE LUKAS, CORY
NELSON, and DALE BOETTCHER,

Defendants,

and

WISCONSIN COUNTY MUTUAL INSURANCE
CORPORATION,

Intervenor-Defendant.

ORDER

18-cv-450-jdp

This is a proposed class action of inmates at Portage County Jail whose attorney phone calls were recorded between 2012 and 2015. The court concluded that Lieberman satisfied most of the requirements in Federal Rule of Civil Procedure 23 for class certification but stayed a decision to allow Lieberman to submit evidence that class counsel have the necessary experience and resources to litigate a class action. *See* Fed. R. Civ. P. 23(g)(1). The court has reviewed the supplemental materials submitted by counsel, *see* Dkt. 78-1-78-3, and is persuaded that they can adequately represent the class. The court will certify the class.

Also before the court is Lieberman's proposed class notice. Dkt. 78-4. The court has reviewed the notice and concludes that it contains all the information required by Rule 23(c)(2)(B) (notice must inform the class members of the nature of the action; the class definition; the class claims, issues or defenses; that a class member may enter an appearance

through an attorney should he or she desire; that the court will exclude any class member requesting exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment on class members). Defendants want the notice to require class members who opt out to notify both class counsel and defendants, but defendants do not identify a precedent for that request, which would place an unnecessary burden on class members. Once the time for opting out has expired, class counsel will share all the opt-out notices with defendants.

ORDER

IT IS ORDERED that:

1. Plaintiff Brett Lieberman's motion for class certification, Dkt. 59, is GRANTED.
2. The following class is certified: "All Portage County Jail detainees whose phone calls to attorneys were recorded from June 12, 2012, until the Jail's distribution of the Inmate Orientation Booklet dated November 24, 2015."
3. Steve Alan Hart, Brian Eldridge, and John Shannon Marrese of the law firm Hart McLaughlin & Eldridge LLC are APPROVED as class counsel.
4. Class counsel may have 30 days to identify, locate, and send notices to the class. The notice should give class members 45 days from the date of mailing to opt out of the class.

Entered August 2, 2019.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge